Proposed New Part 419 of the Superintendent’s Regulations, 3 NYCRR (Mortgage Loan Servicers)

**Summary**

Section 419.1 contains definitions of terms that are used in Part 419 and not otherwise defined in Part 418, including, but not limited to, “affiliated business arrangements,” “loss mitigation option,” and “single point of contact.”

Section 419.2 describes the requirements for the handling of monies placed by a servicer into an escrow account.

Section 419.3 describes requirements for crediting payments from borrowers and handling late payments.

Section 419.4 describes the requirements of an annual account statement which must be provided to borrowers in plain language showing: the unpaid principal balance at the end of the preceding 12-month period, the interest paid during that period, and the amounts deposited into and disbursed from escrow. The section also describes the servicer’s obligations with respect to providing a payment history when requested by the borrower or borrower’s representative.

Section 419.5 sets forth the requirements relating to fees permitted to be collected by servicers and how often such fees may be charged to a borrower.

Section 419.6 describes the requirements for handling borrower complaints and inquiries.

Section 419.7 sets forth the servicer’s obligations with respect to handling of loan delinquencies and loss mitigation, including an obligation to make reasonable and good faith efforts to pursue appropriate loss mitigation options, including loan modifications. This section includes requirements relating to procedures and protocols for handling loss mitigation, including providing borrowers with information regarding the servicer’s loss mitigation process, decision-making, and available counseling programs and resources.

Section 419.8 describes the Volume of Servicing Report that the Superintendent may require servicers to submit to the Superintendent, including information regarding the servicer’s mortgage loans servicing activities.

Section 419.9 describes the books and records that servicers are required to maintain as well as other reports the Superintendent may require servicers to file in order to determine whether the servicer is complying with applicable laws and regulations. These include books and records regarding loan payments received, communications with borrowers, financial reports and audited financial statements.
Section 419.10 sets forth the activities prohibited by the regulation, including engaging in misrepresentations or material omissions and establishes a duty of fair dealing for servicers in connection with their transactions with borrowers.

Section 419.11 sets forth a servicer’s obligations with respect to the oversight of third-party providers, including requiring a servicer to perform appropriate due diligence and conduct periodic reviews of third-party providers’ qualifications.

Section 419.12 sets forth requirements for mortgage servicing transfers, including a requirement that servicers permit borrowers to continue making existing trial modification payments.

Section 419.13 establishes a procedure for the handling and reporting of affiliated business arrangements requiring, among other things, notice to the borrower of such an arrangement and market rate terms.